## Form 1139

(Rev. November 1980)

Department of the Treasury

Date

## **Corporation Application for Tentative Refund**

(From Carryback of Net Operating Loss, Net Capital Loss, Unused Investment Credit,
Unused Work Incentive (WIN) Program Credit, Unused Jobs Credit, OR
Overpayment of Tax Due to a Claim of Right Adjustment Under Section 1341(b)(1))

Do Not Attach to Your Income Tax Return— File Separately to Expedite Processing

313-490-1

inte	rhal Revenue Service	Otorpaymont	01 14X 540 to 4 0	tann or tognerication					
Name						Employer identification number			
Nun	nber and Street								
City	or Town, State, and ZIP code								
	Net operating loss (attach com-						Net capital loss (attach computa-		
1 This application is filed for carryback of:			putation—see instruction D) ▶ \$			tion—see instruction E) > \$			
Unused investment credit ▶   \$		.  \$	Unused WIN credit >		\$	Unused jobs credit ▶ \$		\$	
2 Return for year of amount(s) listed in item 1 above, OR overpayment under section 1341(b)(1) ►			(year ended (b) Date filed		e filed	(c) Service center where filed			
3	Was a consolidated return fill "Yes," enter the employer	=	=				[	Yes No	
4	(a) Preceding tax year affected by carryback		(b) Service center where returns filed (City and State)			(c)	(c) Unpaid tax for which extension of time for payment of tax on Form 1138 is in effect  (d) Was a consolidated return filed?  Yes No		
31	3rd								
21	2nd								
15	1st					\$			
5	If Form 1138 (Extension of T been filed, was an extension	of time granted	d for filing the		ar of the net op			☐ Yes ☐ No	
_	If "Yes," give date to which e			7 Data of inco	· · · · · · · · · · · · · · · · · · ·			of a dissolved	
O	permission to change was gra		date 7 Date of incorporation			8 If this is an application of a dissolved corporation, give date of dissolution			
9	Have you filed a petition in Ta	ax Court for the	e year or years	to which the car	ryback is to be	applied?	[	Yes No	
	Computation of		3rd preceding tax year ended ▶		2nd preceding tax year ended ►		1st preceding tax year ended ▶		
	Decrease in Tax	į	(a) As last	(b) After	(c) As last	(d) After	(e) As last	(f) After	
	Decrease in Tax		determined	carryback	determined	carryback	determined	carryback	
1	Taxable income before deducting li	ines 2 and 4 .							
2	2 Net capital gains offset by capital loss carry-								
	back (see instruction E for limitation) .		<u> </u>						
3	Subtract line 2 from line 1						,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		
4	Net operating loss deduction resulting from carryback								
	Taxable income (subtract line 4 from Tax on line 5 (see instruction C) .								
	Alternative tax (see instruction C)								
	Income tax (enter smaller of line 6								
9	Foreign tax credit								
	Investment credit (see instruction	ļ <del></del>							
11	WIN credit (see instruction F) .	[							
12	Jobs credit (see instruction F) .	[							
	Subtract sum of lines 9 through 12								
14	Personal holding company tax (Sc	h. PH 1120) . 📙							
15	5 Tax from recomputing prior year investment credit								
16	Tax from recomputing prior year W	IN credit							
17	Minimum tax	_							
18	Total of lines 13 through 17 . $$ .			יייייייייייייייייייייייייייייייייייייי					
	Enter amounts from line 18, cols. (						<b> </b>		
	Decrease in tax (subtract line 19 f	<del></del>		1241/11/2	h	<u> </u>	<u>///                                   </u>	<i>:////////////////////////////////////</i>	
21	Overpayment of tax due to a clain Under penalties of perjury, I declare							l owledge and belief it	

Signature of officer

## Instructions

(References are to the Internal Revenue Code)

Note: A corporation may elect to carry forward a net operating loss instead of first carrying it back by attaching a statement to this effect on a timely filed return (including any extensions) for the year of the loss. Once you make such an election, it is irrevocable for that tax year. The carry forward is limited to 7 years, whether or not a carryback is used first.

- A. Purpose of Form.—A corporation must use this form to apply for:
- (1) A quick refund of taxes from carryback of a net operating loss, a net capital loss, unused investment credit, unused WIN credit, or unused jobs credit.
- (2) A quick refund of taxes from an overpayment of tax due to a claim of right adjustment under section 1341(b)(1).

This does not apply to a "Small Business Corporation" that elects the tax treatment provided by subchapter S.

**B.** When and Where to File.—This form must be filed with the Internal Revenue Service Center where the corporation is required to file its income tax return.

It must be filed within 1 year after the end of the year in which the net operating loss, net capital loss, unused credit, or claim of right adjustment arose, but only after the return for such year is filed.

In the following cases, if a carryback reduces a credit taken in a prior year, the unused credit that arises may be carried back 3 additional years.

- A net operating loss carryback or a net capital loss carryback eliminates or reduces an investment credit, WIN credit, or jobs credit in a prior year.
- An investment credit carryback reduces a WIN credit or jobs credit in a prior year.
- A WIN credit carryback reduces a jobs credit in a prior year.

Since the unused credit created affects the taxes of a year or years prior to the 3 years preceding the loss year or the unused credit year, a separate Form 1139 must be used for such prior year(s). In such case, the second application must also be filed within 1 year after the year in which the net operating loss, net capital loss, or the unused credit arose but only after the return for such year is filed. To expedite processing, both Forms 1139 should be filed together.

Do not attach Form 1139 to your income tax return.

A corporation that has filed Form 1138 and wishes a further extension of time for payment must file Form 1139 on or before the last day of the month in which falls the due date (including any extension of time granted) for filing the return for the tax year of the net operating loss from which the carryback results.

C. Recomputation of Tax Liability.—Enter in columns (a), (c), and (e) the tax for the applicable carryback year as shown on the original or amended return. If the return was

examined, enter the amounts that were determined as a result of the examination.

To arrive at the decrease in the tax previously determined, recompute the tax after taking the carryback(s) into account. Form 1120 and Schedule D (Form 1120) and instructions for the applicable year will be helpful in making this recomputation. Attach a detailed computation of the new tax liability shown on line 6 and, if applicable, the alternative tax liability shown on line 7. If the alternative tax liability shown on line 7. If the alternative tax does not apply, enter the tax from line 6 on line 8. Where applicable, the computation must take into account (1) sections 1561 through 1564 and (2) changes in the alternative tax rates under section 1201.

A net capital loss carryback will affect the net long-term capital gain of a prior year and also the alternative tax computation that took the capital gain into account.

A corporation will also be required to recompute its minimum tax for a prior year in which it had items of tax preference, if a net operating loss, net capital loss, or unused credit, was carried back to that year. Attach a recomputation of the minimum tax for the prior year using Form 4626.

The quick refund is limited to the tax decrease that results from the carryback and its effect upon any items taken into account in computing the tax previously determined (plus any refund for an overpayment of tax under section 1341(b)(1)).

Deductions that are limited by taxable income are to be recomputed after carryback of a net operating loss or net capital loss. The deduction for charitable contributions, however, is computed without regard to any carryback. Attach a schedule showing the recomputation. Also, credits based on or limited by the tax must be recomputed on the basis of the tax liability after application of the carrybacks.

D. Net Operating Loss Carryback.—Generally, a net operating loss must be carried back to each of the 3 tax years before the year of the loss. Special rules apply for any part of a net operating loss attributable to a foreign expropriation loss, a product liability loss, and certain other losses. (See section 172(b) and related regulations for details.)

All adjustments required to compute a net operating loss that may be carried back to any year must be shown on a separate schedule. A copy of page 1 of Form 1120 for the loss year may be attached instead.

E. Capital Loss Carryback.—Net capital losses may be carried back 3 years as a short-term capital loss. The net capital loss may be carried back only to the extent it does not increase or produce a net operating loss in the tax year to which it is being carried. For special rules on capital loss carrybacks, see section 1212(a)(4).

Enter on line 2 the amount of capital loss carryback which offsets capital gains. The carryback can not be more than the amount of net capital gains in the year to which carried (determined without regard to the net capital loss of the loss year or for any later tax year). Attach a computation of the capital gains against which the capital loss carryback is being applied. A copy of Sched-

ule D (Form 1120) for the carryback year may be attached instead.

F. Carryback of Unused Investment Credit, Unused WIN Credit, or Unused Jobs Credit.—If a tentative carryback adjustment is claimed based on the carryback of any of these credits, attach (1) a detailed schedule showing the computation of the credit carryback and (2) a recomputation of the credit after application of the carryback. Make the recomputation on the appropriate credit form (or on an attachment which follows the format of such form) for the tax year of the tentative allowance.

If the refund is only from a credit carryback, skip lines 1 through 7 when figuring the decrease in tax on page 1.

- G. Overpayment of Tax Under Section 1341(b)(1).—If a tentative refund for overpayment of tax under section 1341(b)(1) is filed, enter the overpayment on line 21 and attach a computation showing the information required in regulation section 5.6411–1 (d).
- H. Allowance of Adjustment.—The Internal Revenue Service will act on this application within 90 days from the later of:
  - (1) The date the application is filed; or
- (2) The last day of the month in which falls the due date (including any extension of time granted) for filing the return for the tax year of the net operating loss, net capital loss, or unused credit. (For an overpayment of tax under section 1341(b)(1), 90 days from the date of the overpayment.)

Additional Information.—We may need to contact you (or your authorized representative if you have one) for additional information in order to be able to act on your application within 90 days. If you wish to designate a representative for us to contact (for example your accountant or tax return preparer), please attach a copy of your authorization form to Form 1139. Form 2848, Power of Attorney and Declaration of Representative or Form 2848–D, Tax Information Authorization and Declaration of Representative, may be used for this purpose.

I. Disallowance of Application.—Any application which contains material omissions or computation errors which the Internal Revenue Service deems cannot be corrected within the 90-day period may be disallowed. This application for a tentative carryback adjustment does not constitute a claim for credit or refund.

If this application is disallowed in whole or in part, no suit may be brought in any court for the recovery of that tax. The corporation may, however, file a regular claim for credit or refund on Form 1120X at any time before the expiration of the statute of limitations. See section 6511.

J. Excess Allowances.—Any amount applied, credited, or refunded on the basis of this application which is later determined by the Internal Revenue Service to be excessive may be assessed as a deficiency as if it were due to a mathematical or clerical error appearing on the return.